IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9903 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION LIMITED - Petitioner(s)

Versus

ST EMPLOYEES' UNION,SEVALAY - Respondent(s)

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Appearance :

MS SEJAL K MANDAVIA for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 13/09/2005

ORAL JUDGMENT

1. On 3rd August, 2005 this Court has issued Rule returnable on 24th August, 2005. It appears that though Rule is served on the respondent no one has remained

present.

2. In the present petition the petitioner S.T. Corporation has challenged the legality of an award dated 19th June, 2004 passed by Industrial Tribunal, Ahmedabad. By the impugned award the Tribunal was pleased to reduce the penalty of placing the workman five stages below in his pay scale and was pleased to substitute a penalty of reducing the workman by two stages.

3. The workman who was engaged as a conductor by the petitioner corporation was found to be carrying ticketless passengers though fare was collected from them on 16th November, 1996. A charge sheet came to be issued to him in this regard. Eventually upon completion of the departmental inquiry the petitioner held that the charges are proved. Petitioner imposed punishment of reducing the workman in the pay scale by five stages. Aggrieved by the order of punishment Industrial Dispute came to be raised for and on behalf of the workman before the Industrial Tribunal. The workman accepted the legality of the departmental inquiry conducted. The Industrial Tribunal though observed that there where four passengers in the bus from whom fare of Rs.20/- was collected by the

conductor, no tickets were issued and also noted that the previous record of the workman was bad and there were series of misconducts committed by the workman, came to the conclusion that there was no dishonest intention on the part of the workmen in not issuing tickets. The Industrial Tribunal accepted the version of the workman that on account of non availability of loose change the tickets were not issued. Eventually the Industrial Tribunal found it appropriate to interfere with the quantum of punishment and reduced the penalty from that of reducing the scale of the workman by five stages to that of two stages.

4. The award of the Industrial Tribunal cannot be sustained. The petitioner had through proper evidence led during the course of the departmental inquiry found that the charges against the workman were proved. It was not open for the Industrial Tribunal to interfere with these findings of the fact unless they were shown to be perverse. When it was found that the workman had committed misconduct of carrying ticketless passengers after collecting fare from them and when it was found that his past record was also extremely bad where several defaults of similar nature were proved against him, the

Industrial Tribunal ought not to have shown leniency. In the result the impugned award is set aside. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)

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